

FmHA or its successor agency under Public Law 103-354 449-36 are incorporated in this subpart, made a part hereof, and appear as appendices A, B, and C in the FEDERAL REGISTER. Copies of the forms may be obtained from any FmHA or its successor agency under Public Law 103-354 office.

(b) [Reserved]

[48 FR 30947, July 6, 1983, as amended at 50 FR 39886, Sept. 30, 1985; 51 FR 6711, Feb. 25, 1986; 51 FR 29905, Aug. 21, 1986; 52 FR 6501, Mar. 4, 1987; 52 FR 22290, June 11, 1987; 54 FR 4, Jan. 3, 1989; 54 FR 42483, Oct. 17, 1989; 56 FR 8260, Feb. 28, 1991; 57 FR 6068, Feb. 20, 1992; 58 FR 34308, June 24, 1993; 60 FR 53256, Oct. 13, 1995; 64 FR 7403, Feb. 12, 1999]

**§ 1980.84 Replacement of guaranteed loan documents.**

(a) [Reserved]

(b) *Requirements.* When a Loan Note Guarantee, Contract of Guarantee, or Assignment Guarantee Agreement is lost, stolen, destroyed, mutilated, or defaced while in the custody of the lender or holder, the lender will coordinate the activities of the party who seeks the replacement documents and will submit the required documents to the Agency for processing. The requirements for replacement are as follows:

(1) A certificate of loss properly notarized which includes:

(i) Legal name and present address of the owner, who is requesting the replacement forms.

(ii) Legal name and address of lender of record.

(iii) Capacity of person certifying.

(iv) Full identification of the Loan Note Guarantee, or Assignment Guarantee Agreement including the name of the borrower, FmHA or its successor agency under Public Law 103-354 case number, date of the Loan Note Guarantee, Assignment Guarantee Agreement, face amount of the evidence of debt purchased, date of evidence of debt, present balance of the loan or line of credit, percentage of guarantee and if Assignment Guarantee Agreement, the original named holder and the percentage of the guaranteed portion of the loan assigned to that holder. Any existing parts of the document to be replaced should be attached to the certificate.

(v) A full statement of circumstances of the loss, theft, or destruction of the

Loan Note Guarantee, or Assignment Guarantee Agreement.

(vi) The holder shall present evidence demonstrating current ownership of the Loan Note Guarantee and note or Assignment Guarantee Agreement. If the present holder is not the same as the original holder, a copy of the endorsement of each successive holder in the chain of transfer from the initial holder to present holder must be included. If copies of the endorsement cannot be obtained, best available records of transfer must be presented to FmHA or its successor agency under Public Law 103-354 (e.g., order confirmation, canceled checks, etc.).

(2) An indemnity bond acceptable to FmHA or its successor agency under Public Law 103-354 shall accompany the request for replacement except when the holder is the United States, a Federal Reserve Bank, a Federal Government Corporation, a State or Territory, or the District of Columbia. The bond may be with or without surety. The bond shall be with surety except when the outstanding principal balance and accrued interest due the present holder is less than \$1,000,000 verified by the lender in writing in a letter of certification of balance due. The surety shall be a qualified surety company holding a certificate of authority from the Secretary of the Treasury and listed in Treasury Department Circular 580.

(3) All indemnity bonds must be issued and/or payable to the United States of America acting through the Farmers Home Administration or its successor agency under Public Law 103-354. The bond shall be in an amount not less than the unpaid principal and interest. The bond shall save FmHA or its successor agency under Public Law 103-354 harmless against any claim or demand which might arise or against any damage, loss, costs, or expenses which might be sustained or incurred by reasons of the loss or replacement of the instruments.

(4) In those cases where the guaranteed loan was closed under the provisions of paragraph III(A)(2) of Form FmHA or its successor agency under Public Law 103-354 449-35, known as the "Multi-Note System," FmHA or its successor agency under Public Law 103-

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354 will not attempt to or participate in the obtaining of replacement notes from the borrower. It will be the responsibility of the holder to bear costs of note replacement if the borrower agrees to issue a replacement instrument. Should such note be replaced, the terms of the note cannot be changed. (See paragraph III(A)(2)(b) of Form FmHA or its successor agency under Public Law 103-354 449-35 for general conditions for reissued notes.) If the evidence of debt has been lost, stolen, destroyed, mutilated or defaced, such evidence of debt must be replaced before FmHA or its successor agency under Public Law 103-354 will replace any instruments.

### ADMINISTRATIVE

A. State Directors will review all documents when presented by the lender to assure all requirements are met.

B. The State Director will contact the Regional OGC for assistance before new guarantee instruments are issued.

C. If the decision is to reissue Loan Note Guarantee(s), Contract of Guarantee(s), or Assignment Guarantee Agreement(s) the following procedure will be followed:

(1) *Multi-note system.* A new Form FmHA or its successor agency under Public Law 103-354 449-34 will be prepared using the original face amounts and amounts guaranteed (not outstanding loan balance). At the top of the form type "This Loan Note Guarantee is issued to replace the original dated \_\_\_\_\_ which was (*insert "lost, stolen, destroyed, defaced or mutilated."*) Only execute an original for the Holder. Copies may be conformed for the lender and FmHA or its successor agency under Public Law 103-354 file.

If borrower notes are needed they must be obtained by the holder from the borrower. The indemnity bond must be kept in safekeeping.

(2) *Assignment Guarantee Agreement system.* A new Form FmHA or its successor agency under Public Law 103-354 449-36 will be prepared using the original amounts except the current principal amount of the loan outstanding should be inserted at item 1 on the face of the document. At the top of the form type "This Assignment Guarantee Agreement is issued to replace the original dated \_\_\_\_\_ which was *lost, stolen, destroyed, defaced or mutilated.*" Only execute an original for the Holder. Copies may be conformed for the lender and FmHA or its successor agency under Public Law 103-354. If a surety bond is issued, it must be kept in safekeeping.

(3) The lender must execute the replacement forms prior to FmHA or its successor

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agency under Public Law 103-354 execution of the same.

(4) Certificates of Incumbency may be provided.

[48 FR 30947, July 6, 1983, as amended at 50 FR 39886, Sept. 30, 1985; 51 FR 6707, Feb. 25, 1986; 58 FR 34308, June 24, 1993; 60 FR 53256, Oct. 13, 1995; 64 FR 7403, Feb. 12, 1999]

### § 1980.85 Exception authority.

The Administrator may in individual cases make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law, or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. Requests for exception, must be in writing by the State Director and submitted through the appropriate Assistant Administrator. Requests must be supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted. In addition, any request for an exception to §1980.13(b) of this subpart must document that the lender involved has furnished acceptable evidence of regulation and supervision.

[54 FR 1549, Jan. 13, 1989]

### §§ 1980.86-1980.99 [Reserved]

### § 1980.100 OMB control number.

The reporting requirements contained in this subpart have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0024. Public reporting burden for this collection of information is estimated to vary from 15 minutes to 28 hours per response, with an average of 2.08 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this